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INTEGRATION OF THE HUMAN RIGHTS OF WOMEN AND THE GENDER PERSPECTIVE: VIOLENCE AGAINST WOMEN

Written statement* submitted by the Asian Legal Resource Centre (ALRC), a non-governmental organization in general consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[15 January 2002]

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*This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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ENG

Violence against Dalit women in India and Nepal

1. 260 million Dalits in South Asia suffer structural discrimination and violence on the basis of descent and occupation. Dalits are stigmatised as "polluted" and "impure" and therefore "untouchable", denying them entry into places of worship, participation in religious festivals, access to common drinking water, restaurants and other public places. They are assigned to menial and degrading work, including cleaning toilets by hand, skinning and disposal of dead animals, digging graves and sweeping, and forced prostitution of women and very young girls, all of which carry intrinsic health risks. These practices, including restrictions on inter-caste marriage, segregation of housing settlements and cemeteries and other apartheid-like practices against generations of Dalits have the cumulative effect of systematically destroying their individual and collective identity, dignity and self-respect.

2. Dalit women, in addition, suffer discrimination and violence on the basis of gender at the hands of men and women of higher castes as well as those of their own community. The extreme vulnerability of Dalit women to violence is rooted in the structural precariousness of their economic, social and political position, both as Dalits and as women. Daily, Dalit women are victimised and violated. They suffer mental and physical assaults when fetching water from public wells and taps, are consistently subjected to physical and sexual violence by higher caste landlords, are not allowed to enter temples or houses of upper caste people, and are not accepted by higher-caste families they attempt to marry into. Dalit women work at least as hard as the men, are generally paid very little, and usually in kind. Having no economic power in their families, who themselves are living in conditions of poverty, Dalit women are among the most exploited and poorest people in the country.

3. Traditional (pseudo-religious) practices directed against Dalits—for example, the Devadasi practice of dedicating young pre-pubescent girls to a deity or a temple—have evolved into an accepted system of prostitution serving both priests and higher caste men in the villages. The "dedicated" girls, unable to marry or work outside the temple, live out their lives in sexual servitude. During caste violence—which can occur at any time a higher caste person or group feels challenged or wishes to assert their dominance—women are raped, mutilated and murdered as part of the "punishment", "humiliation" or "show of power". This is in addition to the brutality meted out to the whole Dalit community.

4. Although constitutional provisions in both India and Nepal stipulate proportional reservation of positions for women in national and local political structures, these are not implemented for women in general, and least of all for lower caste Dalit women. Article 11(4) of the Constitution of Nepal (1990) states that "no person shall on the basis of caste, be discriminated against as untouchable, be denied access to any public place, or be denied the use of public utilities". The National Code (1964) (Muliki Ain 2020 B.S.) made provisions to eliminate caste-based discrimination and Nepal has also ratified the Convention on the Elimination of All Forms of Racial Discrimination.

5. Dalits in Nepal—who make up 15–25% of the population—are still treated as socially untouchable, and are exploited and discriminated on the grounds of caste, although "untouchability" has been made punishable by law since 1990. A study by the Foundation for Economic and Social Change has revealed that 78% of Dalits are in extremely difficult living conditions due to unequal distribution of resources: for instance, the total Dalit literacy rate is 5 %, compared to the national rate of 66%.

6. As a result of poverty, discrimination and lack of access to the basic necessities, low life expectancy, high mortality and fertility rates and general ill health afflict Dalit

communities, especially the women and children. Of 2 million Dalit women in Nepal, there are maybe 10-15 women tertiary graduates. The small number who manage to get jobs in carpet factories, hotels, government and private offices are subject to sexual harassment and many forms of exploitation. The majority of Dalit women are relegated to the most difficult and undesirable occupations, such as scavengers and cleaners of public toilets. Under these conditions, women and young girls are vulnerable to trafficking practices, and many young girls are reported to be working in brothels in India, under conditions of debt bondage. An Indian Dalit NGO Federation study found that of the 1,590,000 Nepali women and girls working in Indian brothels, 80% are from Dalit communities.

7. Various reports throughout the past year have also related the horrendous static plight of Dalit women in India. According to the Human Rights Watch World Report 2000, violence against women in India, from female infanticide to dowry deaths and attacks on women whose male relatives are sought by the police, continued throughout the year. A study by Amnesty International into the plight of low caste women in the states of Uttar Pradesh and Rajasthan published in May 2001 sketched a depressing picture of stripping, beating, rape, sexual abuse and harassment committed against poor Dalit or tribal communities by landlords, upper caste villagers and police officers. Fewer than 5 % of these cases ever make it to court, because the intense discrimination and lack of respect for the humanity of the lower caste victims makes it virtually impossible for victims, especially women, even to file a complaint at a police station—much less have it received, processed and investigated seriously and justly.

8. According to Amnesty International, the legal problems start with the local policemen charged to register the First Incident Report by a victim of violence. When perpetrators are named belonging to upper-caste and/or influential local families, policemen usually refuse to register the complaint. Worse, policemen have been known to assault and insult the women who try to register complaints of rape or sexual assault. They also routinely demand bribes, intimidate witnesses, cover up evidence and beat up the women's husbands. 30% of rape complaints by lower caste women are routinely dismissed as false by local police officers. Even in the few cases that reach the courts, lawyers sometimes accept money from the accused to advise their clients to drop the case. Policemen themselves sometimes join in attacks on rape victims by gangs of upper-caste villagers seeking to prevent a case from being pursued, instead of acting to prevent these attacks. Rape victims have been murdered in this way with total impunity, including for the policemen. Some cases of violence against Dalit women documented by Amnesty International follow:

- Bhanvari Devi, from Rajasthan, drew water from the upper-caste well in her village and had her 11 year-old daughter beaten unconscious as punishment. When she went to complain at the local police station she was thrown out and called a whore. Later that night, a gang of upper-caste locals sexually assaulted her in her hut.

- Ramvathi was gang-raped by 5 men in her village in Uttar Pradesh, when she and her husband refused to turn over their land to upper caste villagers. Her husband Ram Chandra went to the local police station to lodge a complaint, but the local police refused to file a report. Ram Chandra then made an application to the district Superintendent, who ordered the rape to be investigated, but the local police were not held to account and continued to refuse to take action on the case. Threatened by influential people in the village. Ramvathi and Ram Chandra moved to Ramvathi's parents' village some distance away. 4 months later when they returned to the village to reclaim their property they were attacked by a large gang of men. Ramvathi was again raped, and this time she died from her injuries. Under pressure from activists, local police have arrested some of the suspects, but no

further action has been taken and no compensation paid to Ram Chandra for his injuries or his wife's murder.

- 18 year-old Narbada from Udaipar District of Rajasthan was raped by a Rajput (upper caste) landlord in March 2000. The attacker's mother reportedly heard Narbada's screams but did nothing to stop her son. She in turn beat Narbada and forbade her to go to the police. When Narbada attempted to go to the police regardless with her uncle, 50 Rajputs stopped them. On reaching the police station two days later, they were verbally abused and told to pay Rs. 500 ($11) if they wanted to file a complaint. They refused and travelled 3 ½ hours further to the district headquarters where the Superintendent recorded their complaint. Police were present during her medical examination, which finally took place 4 weeks after the rape. When the case went to court, the Public Prosecutor tried to persuade Narbada to withdraw the complaint. She and her family continue to face harassment from members of the Rajput community.

9. In recent years Dalit communities have risen up and organised themselves to assert their rights, as evidenced by the hundreds of Dalit representatives at the 2001 World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance. In spite of this presence, it is a dismal indictment of the international community that there was no mention of caste discrimination in the final document of the Conference. Worse still, it is to be feared that all individual and collective action by Dalits to assert their rights will continue to be met with extreme violence, such as the burning or destruction of their homes, property and crops, and social boycotts, rape and murder of Dalit women by dominant caste members or their hired thugs.

10. The vulnerability of Dalit women victims of violence is further aggravated by caste and gender biases insidiously present in the law-enforcement systems of Nepal and India, as well as within the structures of state. When they fail to protect and provide justice to the Dalit community ultimately they must be held accountable for the perpetuation of caste discrimination and for the violence against the Dalit communities, both men and women.